

The opinion in support of the decision being
entered today is not binding precedent of the Board.

Paper 134

By: Trial Section Merits Panel
Board of Patent Appeals and Interferences
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
Tel: 703-308-9797
Fax: 703-305-0942

Filed:
September 15, 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

(Administrative Patent Judge Carol A. Spiegel)

INCYTE PHARMACEUTICALS, INC.

Junior party,
U.S. Patent 5,780,235

v.

DEAN A. FALB and
MICHAEL A. GIMBRONE, JR.

Senior party,
Application 08/826,248

Patent Interference No. 104,675

Before: SCHAFFER, TORCZON and SPIEGEL, Administrative Patent Judges.

SPIEGEL, Administrative Patent Judge.

JUDGMENT PURSUANT TO 37 CFR § 1.662(a)

Junior "Party Incyte here abandons contest in this interference" (Paper 133).
Accordingly, it is

FURTHER ORDERED that junior party OLGA BANDMAN and JENNIFER L. HILLMAN (**Incyte**) is not entitled to a patent containing claims 2 and 3-9 (corresponding to Counts 2 and 3, respectively) of U.S. Patent 5,780,235;

FURTHER ORDERED that if there is a settlement agreement which has not been filed, attention is directed to 35 U.S.C. § 135(c) and 37 CFR § 1.661.

CAROL A. SPIEGEL
Administrative Patent Judge

)
)
)
)
)
)
)
)
) BOARD OF PATENT
) APPEALS AND
) INTERFERENCES
)
)
)
)
)

cc (via fax and first class mail):

Attorney for Bandman
(real party in interest:
INCYTE PHARMACEUTICALS, INC.)

Anthony J. Zelano, Esq.
MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
Arlington Courthouse Plaza I
2200 Clarendon Boulevard, Suite 1400
Arlington, VA 22201
Tel: 703-812-5311 (direct)
703-243-6333 (general)
Fax: 703-243-6410
E-mail: zelano@mwzb.com

Diana Hamlet-Cox, Esq.
Incyte Genomics, Inc.
Legal Department
3160 Porter Drive
Palo Alto, CA 94304
Tel: 650-845-4639
Fax: 650-849-8886
E-mail: dianahc@incyte.com

Attorney for Falb
(real parties in interest:
MILLENIUM PHARMACEUTICALS, INC. and
BRIGHAM AND WOMEN'S HOSPITAL)

Samuel B. Abrams, Esq.
Nikolaos C. George, Esq.
PENNIE & EDMONDS LLP
1155 Avenue of the Americas
New York, New York 10036
Tel: 212-790-9090
Fax: 212-869-9741
E-mail: abramss@pennie.com
georgen@pennie.com